

**BOARD OF APPEALS CASE NO. 5359**

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**BEFORE THE**

**APPLICANT: Pat Hockman**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to construct an  
addition within the required front yard  
setback; 1007 Amberly Court, Bel Air**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 6/11/03 & 6/18/03**

**HEARING DATE: July 23, 2003**

**Record: 6/13/03 & 6/20/03**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Pat Hockman, is requesting a variance, pursuant to Section 267-36B, Table IV, of the Harford County Code, to construct an addition within the required forty (40) foot front yard setback (proposed 24.5 foot average) in an R1 District.

The subject parcel is located at 1007 Amberly Court, Bel Air, Maryland 21014 in the Third Election District, and is more particularly identified on Tax Map 48, Grid 2E, Parcel 440, Lot 67. The parcel contains approximately 0.973 acres more or less.

Mr. Hockman, appeared and testified that he is the owner of the subject property. He stated that he had read the Department of Planning and Zoning Staff Report, and had no changes or corrections to the information contained therein.

The Applicant described his property as a corner lot, with frontage on both Amberly Court, and Emerald Drive. According to the witness, the property is improved by a two-story dwelling, with an attached garage, and an attached rear brick porch and stone and brick patio. Mr. Hockman stated that he proposes to construct a 16 by 32.5 foot addition on the Emerald Drive side of the residence, to increase existing living space. The witness then testified that the proposed location is the only practical place on the property for the construction of an addition, because most of the rear yard is taken up with the existing septic system, the well is located within the front yard, and there is an attached one-story brick garage located to the right of the existing dwelling.

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The proposed addition would be 33 feet from the side property line on the southern end, and 36.33 feet from the side property line on the northern end. This discrepancy in distances is caused by a curvature of the side setback line along Emerald Drive. The proposed construction would result in a maximum seven foot encroachment into the required side yard setback. Despite this encroachment, the proposed addition would still be between 150 to 200 feet from the closest dwelling. The addition would also be well screened by existing mature trees.

Mr Hockman also testified that other homes within his neighborhood have similar additions, and that the proposed structure would be comparable in both size and appearance to additions on other homes located within his neighborhood. The proposed addition would also be compatible with the existing dwelling, being only one story high, and containing a sunroom/future master bedroom, and master bath. Finally, the witness stated that, the granting of the requested variance will have no adverse impact on any adjacent properties.

Mr. Anthony McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning appeared and testified regarding the findings of fact and recommendations made by that agency. Mr McClune testified that the Department recommended approval of the subject request in its June 27, 2003 Staff Report, subject to the conditions set forth in that report. He also indicated the Department found that the subject property to be unique based upon the existing improvements, and the location of the existing well, septic, and driveway. According to Mr. McClune, Harford County Code allows for setbacks to be averaged in situations where the property line is not straight. Mr. McClune also testified that the topography of the subject property is unique because it slopes upward significantly from Emerald Drive toward the dwelling. This is evidenced in the second photograph incorporated as Attachment 7 to the Department of Planning and Zoning's Staff Report. Mr. McClune referred to that photograph, and pointed out that the road on the left side is Emerald Drive. He stated that the sloping topography makes the site of the proposed addition appear further away from adjoining properties. For this reason, the proposed addition will appear to be further away from adjacent properties than it actually is.

No witnesses appeared in opposition to the requested variance.

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### **CONCLUSION:**

The Applicant, Pat Hockman, is requesting a variance, pursuant to Section 267-36B, Table IV, of the Harford County Code, to construct an addition within the required forty (40) foot front yard setback (proposed 24.5 foot average) in an R1 District.

Section 267-36B, Table IV, of the Harford County Code requires a minimum 35 foot front yard depth, for a single-family detached home in an R1 District.

Harford County Code Section 267-11 permits the granting of variances, stating that:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Maryland Court of Special Appeals set forth a two prong test for determining whether a variance should be granted in the case of Cromwell v. Ward, 102 Md. App. 691, (1995). This test can be summarized as follows. First, there must be a determination as to whether there is anything unique about the property for which the variance is being requested. A lot is unique only if there is a finding that a peculiar characteristic or unusual circumstance, relating only to the subject property, causes the zoning ordinance to impact more severely on that property than on surrounding properties. Cromwell, *supra*, at 721. If the subject property is unique, the trier of fact may proceed to the second prong of the test. This involves a determination as to whether literal enforcement of the zoning ordinance with regard to the subject property would result in practical difficulty or unreasonable hardship to the property owner.

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The Hearing Examiner finds that the subject property is unique because it is a corner lot, and hence, subject to two front yard setbacks. In addition, the house is set straight to the front property line along Amberly Court, creating a curved front yard setback along Emerald Drive. The location of the existing well, septic, and attached garage, make the proposed location the only practical place in which to construct an addition.

The Hearing Examiner finds that literal enforcement of the Code in this case would result in practical difficulty for the Applicant. Numerous other homes in the neighborhood have additions similar to that proposed by the Applicant. If the requested variance is not granted, the Applicant will be unable to expand his existing home by constructing a sunroom and creating single story living, and will therefore be denied property rights commonly enjoyed by other homeowners within his neighborhood.

Finally, the Hearing Examiner finds that the granting of the requested variance will not be substantially detrimental to adjacent properties, or materially impair the purpose of this Code or the public interest. The Hearing Examiner has reviewed the blueprint of the proposed addition, submitted as Applicant's Exhibit 1, and determined that the proposed construction is architecturally compatible with the existing structure. In addition, based upon the presented testimony, the Hearing Examiner has determined that the proposed construction is compatible with other properties in their neighborhood. Further, the proposed construction will have no adverse impact on neighboring properties because the outside wall of the addition will be between 150 and 200 feet from the closest residence, and will be screened from view of adjacent properties by mature trees on the side and rear of the property, and by sloping topography in the location of the proposed addition.

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The Hearing Examiner recommends approval of the Applicant's request, subject to the following conditions:

1. That the Applicant obtain all necessary permits and inspections for the proposed construction.
2. That the Applicant not encroach further into the setback than the distance requested herein.

Date      **AUGUST 19, 2003**

**Rebecca A. Bryant**  
**Zoning Hearing Examiner**